

REMARKS

The Final Office Action mailed March 18, 2009 has been carefully considered. Reconsideration and allowance of the subject application, in light of the following remarks, are respectfully requested.

Claims 1-21 are currently pending, claims 22-24 having been previously cancelled. No claims have been added or cancelled by this Response. No claims have been amended by this Response.

In view of the fact that no changes have been made to the claims by this Response, it is respectfully submitted that this Response is entitled to consideration and entry as a matter of right.

In the Final Office Action, the Examiner has rejected claims 1, 4-12, and 19-21 under 35 USC §103(a) as being unpatentable over Paul et al. (U.S. Patent Publication No. 2004/0133677) in view of Daoud et al. (U.S. Patent Publication No. 2002/0087694) and Ejzak (U.S. Patent Publication No. 2003/0027595). The Examiner has also rejected claims 2-3 and 13 under 35 USC §103(a) as being unpatentable over Paul et al. (previously cited) in view of Daoud et al. (previously cited), Ejzak (previously cited), and Swildens et al. (U.S. Patent No. 7,346,676). Additionally, the Examiner has rejected claims 14-18 under 35 USC §103 as being unpatentable over Paul et al. (previously cited) in view of Daoud et al. (previously cited). Applicants respectfully submit that these rejections of the claims cannot be maintained, and should be withdrawn.

In each of the above obviousness rejections, the Examiner primarily relies upon Paul et al. Given the filing and publication dates stated on Paul et al.'s coversheet, the Examiner presumably is asserting that Paul et al. constitutes prior art to the subject application solely under the provisions of 35 USC §102(e). **However, for the record, the subject application and Paul et al. were, at the time that the invention of the subject application was made, owned by the Assignee of the subject application, Intel Corporation.** Accordingly, under the provisions of 35 USC §103(c) and MPEP §706.02(l)(1), Paul et al. does not constitute prior art that can be used to reject the subject application in the above obviousness rejections.¹

¹ Accordingly, in responding to the above rejections, Applicants herein expressly decline to provide any characterization of Paul et al. on the merits vis-à-vis the claimed invention. Applicants also do not acquiesce as to the validity and/or correctness of the Examiner's characterizations of the claims and/or other documents relied upon

Suffice it to note that none of the other documents relied upon by the Examiner (i.e., other than Paul et al., which as stated above does not constitute prior art citable against the subject application in the above rejections) can be said to disclose or suggest the combination of features of Applicants' claim 1, namely:

A method of communicating load, comprising:

determining a load on a first node;

factoring the load into a session initiation protocol (SIP) Q-value for the first node, where the Q-value is an integer value based on both (1) a contact priority and (2) a number of calls or an amount of information being processed for a call;

transmitting the Q-value to a second node via one or more load brokers where each load broker is a back-to-back user agent; and

determining a domain load factor for a domain that comprises a plurality of SIP entities, the domain load factor indicating domain load for the entire domain, the domain load factor to be shared with other domains and to be used with the Q-value to determine call routing. (Independent claim 1).

All of the currently pending independent claims contain the above limitations of claim 1, or similar limitations. Thus, all of the currently pending claims contain the above limitations of claim 1 or other similar limitations, either directly, or by depending from one of the independent claims. 35 USC §112, fourth paragraph.

These differences between these documents (i.e., the cited documents other than Paul et al.) used in the above rejections, and the claims, are not merely academic. For example, although the limitations in the claims are not limited to or bound by embodiments disclosed in the Specification, in an embodiment disclosed in the Specification, these features of the claimed invention that are not disclosed or suggested in these documents permit this embodiment to

by the Examiner. Applicants expressly reserve the right to challenge during prosecution and/or in any other forum (e.g., litigation and/or re-examination) the validity and/or correctness of the Examiner's characterizations of the claims, as well as, the documents cited against the subject application.

operate in a manner that is different from, and to achieve advantages compared to the technology disclosed in these documents. (See, e.g., Specification, page 10, lines 14-22).

Accordingly, since these advantageous features of the claimed invention are nowhere disclosed or suggested in any of these documents, it is respectfully submitted that none of these documents, taken singly or in any combination, anticipates or renders obvious the claimed invention. Therefore, it is respectfully submitted that the Examiner's rejections of the claims under 35 USC § 103 cannot be maintained, and should be withdrawn.

In the event that the Examiner believes that a telephone interview would advance the prosecution of this application, the Examiner is invited to call the undersigned attorney to initiate an interview.

In the event that any fees are due or payable in connection with this submission or in this application (including any applicable extension of time for response fees) please charge them to Deposit Account No. 50-4238. Likewise, please credit any overcharges to Deposit Account No. 50-4238.

Respectfully submitted,

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